

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 2437 - SB 2804**

March 23, 2022

**SUMMARY OF BILL:** Revises the amounts in the classification system for theft of property or services.

**FISCAL IMPACT:**

**Increase State Expenditures – \$13,700 Incarceration**

**Decrease State Expenditures – \$4,113,800/FY22-23 Incarceration  
\$9,755,600/FY23-24 Incarceration**

**Other Fiscal Impact – Decreases in incarceration expenditures will continue through FY31-32. Exact amounts of annual decreases over the next 10 years are included below.**

**Assumptions:**

- Tennessee Code Annotated § 39-14-105 establishes the grading of theft of property or services. Additional offenses that use the grading of theft to set the classification of the offense are as follows:
  - Criminal Simulation;
  - Forgery;
  - Fraudulent use of a credit card;
  - Fraudulent insurance claim;
  - Vandalism;
  - Worthless Checks; and
  - Attempt, conspiracy, facilitation or solicitation to commit any of the offenses listed.
- The proposed legislation changes the grading of theft of property of services as follows:

<b>Classification</b>	<b>Current Grading</b>	<b>Proposed Grading</b>
A Misdemeanor	< or = \$1,000	< or = \$1,000
E Felony	\$1,000 - \$2,500	\$1,000 - \$10,000
D Felony	\$2,500 - \$10,000	\$10,000 - \$60,000
C Felony	\$10,000 - \$60,000	\$60,000 - \$250,000
B Felony	\$60,000 - \$250,000	\$250,000 - \$350,000
A Felony	\$250,000 or more	\$350,000 or more

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- The revised grading of theft will decrease the penalty for all offenses using the theft grading classification as follows:
  - Current Class D felony offenses will be decreased to a Class E felony;
  - Current Class C felony offenses will be decreased to a Class D felony;
  - Current Class B felony offense will be decreased to a Class C felony.
- Some current Class A felony offenses will be decreased to a Class B felony; however, it is reasonably assumed there will not be a significant change in the number of current Class A felony prosecutions being decreased to a Class B felony for state or local government to experience any significant decrease in revenue or expenditures.
- It is assumed felony admissions over \$350,000 are currently receiving a Class A felony sentence and will not be impacted by the proposed legislation.
- The chart below outlines the offenses expected to experience a change in incarceration in the next 10-year period.

Offense	Admissions	Current Classification	Average Time	New Classification	New Average Time	Estimated Decrease Time
THEFT OF PROPERTY - \$1,000-\$10,000 & \$2,500 - \$10,000 WEIGHTED COMBINED AVERAGES	555.40	D	1.23	E	0.66	(0.57)
THEFT OF PROPERTY - \$10,000-\$60,000 Total	207.40	C	1.73	D	1.11	(0.62)
THEFT OF PROPERTY \$60,000 TO <\$250,000 & \$60,000 and up WEIGHTED COMBINED AVERAGES	23.80	B	2.49	C	1.59	(0.90)
THEFT OF SERVICES - \$1,000-\$10,000 & \$2,500 - \$10,000 WEIGHTED COMBINED AVERAGES	1.80	D	0.93	E	0.66	(0.27)
THEFT OF SERVICES - \$10,000-\$60,000 Total	1.00	C	0.66	D	1.11	0.45
THEFT OF SERVICES - \$60,000 OR MORE Total	0.60	B	1.26	C	1.59	0.33
CRIMINAL SIMULATION (\$1,000-\$10,000) & \$2,500 - \$10,000 WEIGHTED COMBINED AVERAGES	15.20	D	1.18	E	0.66	(0.52)
CRIMINAL SIMULATION - \$10,000-\$60,000 Total	1.40	C	2.24	D	1.11	(1.13)
CRIMINAL SIMULATION (\$60,000 OR MORE) Total	0.20	B	3.39	C	1.59	(1.80)
FORGERY - \$1,000-\$10,000 & \$2,500 - \$10,000 WEIGHTED COMBINED AVERAGES	30.90	D	1.38	E	0.66	(0.72)
FORGERY - \$10,000-\$60,000 Total	4.00	C	1.96	D	1.11	(0.85)
FORGERY - \$60,000 - <\$250,000 & \$60,000 or more WEIGHTED COMBINED AVERAGES	1.30	B	2.50	C	1.59	(0.91)
FRAUD - CREDIT CARD - \$2,500 TO <\$10,000 & \$1,000 - \$10,000 WEIGHTED COMBINED AVERAGES	9.30	D	1.10	E	0.66	(0.44)
FRAUD USE OF CREDIT CARD - \$10,000- \$60,000 Total	1.10	C	1.84	D	1.11	(0.73)
FRAUD USE OF CREDIT CARD (\$60,000 OR MORE) Total	0.10	B	3.31	C	1.59	(1.72)
Fraud Insurance Claim \$1,000 - \$10,000	0.50	D	0.99	E	0.66	(0.33)
Fraud Insurance Claim \$60,000 or MORE	0.20	B	1.59	C	1.59	n/a
VANDALISM - \$1,000-\$10,000 & \$2,500 - \$10,000 WEIGHTED COMBINED AVERAGES	27.40	D	1.24	E	0.66	(0.58)
VANDALISM - \$10,000-\$60,000 Total	9.70	C	1.75	D	1.11	(0.64)
VANDALISM - \$60,000 OR MORE Total	2.00	B	4.43	C	1.59	(2.84)
WORTHLESS CHECKS - \$1,000-\$10,000 & \$2,500 - \$10,000 WEIGHTED COMBINED AVERAGES	4.30	D	0.86	E	0.66	(0.20)
WORTHLESS CHECKS - \$10,000-\$60,000 Total	0.60	C	1.43	D	1.11	(0.32)
ATT FORGERY - \$60,000 OR MORE Total	0.10	C	1.56	D	1.11	(0.45)
ATT THEFT OF PROPERTY - \$10,000-\$60,000 Total	2.60	D	1.13	E	0.66	(0.47)
ATT THEFT OF PROPERTY - \$60,000 OR MORE Total	0.30	C	1.90	D	1.11	(0.79)
CONSP THEFT OF PROPERTY - \$10,000-\$60,000 Total	0.30	D	0.88	E	0.66	(0.22)
CONSP THEFT OF PROPERTY - \$60,000 OR MORE Total	0.30	C	1.26	D	1.11	(0.15)
FAC THEFT OF PROPERTY - \$10,000-\$60,000 Total	1.20	D	0.88	E	0.66	(0.22)
FAC THEFT OF PROPERTY - \$60,000 OR MORE Total	0.60	C	0.95	D	1.11	0.16

- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.74 percent per year for each of the past 10 years (from 2010 to 2020).
- The weighted average operational costs per day are estimated to be \$51.36 for inmates housed at state facilities and \$48.77 for inmates housed at local facilities.
- The estimated increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 6,600	FY22-23
\$ 13,700	FY23-24
\$ 13,500	FY24-25
\$ 13,400	FY25-26
\$ 13,300	FY26-27
\$ 13,200	FY27-28
\$ 13,000	FY28-29
\$ 12,900	FY29-30
\$ 12,800	FY30-31
\$ 12,700	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring costs increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$13,700.
- The estimated decrease in incarceration costs are estimated to be the following over the next ten-year period:

Decrease in State Expenditures	
Amount	Fiscal Year
\$ (4,113,800)	FY22-23
\$ (9,755,600)	FY23-24
\$ (10,040,000)	FY24-25
\$ (10,184,700)	FY25-26
\$ (10,277,000)	FY26-27
\$ (10,388,100)	FY27-28
\$ (10,395,800)	FY28-29
\$ (10,505,000)	FY29-30
\$ (10,584,100)	FY30-31
\$ (10,698,400)	FY31-32

- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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